

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

DORA MAYO,

Plaintiff,

vs.

No. CIV 19-0491 JB\KRS

STATE OF NEW MEXICO, ex rel.
CENTRAL NEW MEXICO CORRECTIONAL
FACILITY and JESUS GONZALES,

Defendants.

ORDER¹

THIS MATTER comes before the Court on State of New Mexico ex rel. Central New Mexico Correctional Facility's First Motion to Dismiss and Memorandum in Support Thereof, filed June 4, 2019 (Doc. 6) ("MTD"). The Court held a hearing on August 14, 2019. The primary issues are: (i) whether Plaintiff Dora Mayo alleges a federal cause of action such that the Court has subject-matter jurisdiction; (ii) whether Mayo can sue the State of New Mexico under 42 U.S.C. § 1983; (iii) whether the State of New Mexico can be held liable under § 1983 under a theory of respondeat superior; and (iv) whether Mayo's State tort claims against the State of New Mexico are time-barred. The Court concludes that: (i) Mayo alleges a federal cause of action, and the Court has subject-matter jurisdiction over this action, because Mayo alleges that the State of New Mexico and the Central New Mexico Correctional Facility violated her federal constitutional rights; (ii) Mayo cannot sue the State of New Mexico or Central New Mexico Correctional Facility

¹This Order disposes State of New Mexico ex rel. Central New Mexico Correctional Facility's First Motion to Dismiss and Memorandum in Support Thereof, filed June 4, 2019 (Doc. 6). The Court may, however, issue a Memorandum Order and Opinion at a later date more fully explaining this Order's rationales and conclusions.

under § 1983, because § 1983 creates no remedies against States; (iii) the State of New Mexico and Central New Mexico Correctional Facility may not be held liable under a respondeat superior theory, because § 1983 allows only for individual liability; and (iv) Mayo's State tort claims against the State of New Mexico are time-barred under N.M. Stat. Ann. § 41-4-15(A), because Mayo filed the Complaint more than two years after the alleged tort occurred. See Mayo v. State of N.M. ex rel. Central N.M. Corr. Facility et al. at 1, No. D-1314-CV-1314-00038 (Thirteenth Judicial District Court, County of Valencia, State of New Mexico), filed in state court January 14, 2019, filed in federal court May 28, 2019 (Doc. 1-1). Accordingly, the Court dismisses the Complaint for Violation of Civil Rights, filed May 28, 2019 (Doc. 1-1), as to the State of New Mexico with prejudice.

IT IS ORDERED that: (i) State of New Mexico ex rel. Central New Mexico Correctional Facility's First Motion to Dismiss and Memorandum in Support Thereof, filed June 4, 2019 (Doc. 6), is granted; and (ii) State of New Mexico ex rel. Central New Mexico Correctional Facility is dismissed from this case with prejudice.

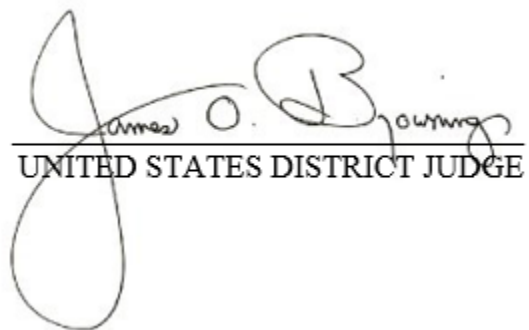
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UNITED STATES DISTRICT JUDGE